

**BOARD OF TRUSTEES
SUFFOLK COUNTY DEPARTMENT OF PARKS,
RECREATION AND CONSERVATION
MINUTES OF FEBRUARY 19, 2009
MEADOWEDGE, WEST SAYVILLE, N.Y.**

BOARD MEMBERS PRESENT

Miles Borden	Trustee, Town of Smithtown
Gil Cardillo	Chairman, Town of Riverhead
Ray Corwin	Member at Large
Gregory Dawson	Vice Chairman, Town of Islip
Amy Engel	Member of the Board
Alexander McKay	Trustee, Town of Huntington
Bill Shilling	Member of the Board
Edward Walters	Trustee, Southampton
Richard F. White, Jr.	Trustee, Town of East Hampton

ABSENT

Scott Hilary	Trustee, Town of Southold
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PARKS DEPARTMENT

John W. Pavacic	Commissioner
Tracey Bellone	Deputy Commissioner
Nick Gibbons	Principal Environmental Analyst
Colleen Hofmeister	Principal Contracts Examiner
Terry Maccarrone	Coordinator of Community Based Programs
Ann Rothenberg	Assistant to the Commissioner

GUESTS

Dennis Brown	Assistant County Attorney
Lauretta Fischer	Principal Environmental Analyst, Planning Department
Legislator Viloría-Fisher	Legislature
Tom Isles	Director, Planning Department
Janet Longo	Deputy Director, Real Property Acquisitions and Management
Tom Ryan	Office of Legislature Viloría-Fisher

Chairman Cardillo called the meeting to order.

PUBLIC PORTION

Thomas Jones, Suffolk Committee for Camping, was here to argue against the proposed fee increases at Suffolk County Parks. It is structured unfairly and there is no rhyme or reason as to who is being raised or how much. The golfers are being raised 12% while the campers are being raised 25%. The fees are not going up for the people parking at beaches. The whole concept is wrong. The idea of putting on a surcharge for anyone using a park and then having that money go in another direction is just wrong. He asked that the Board vote against an increase in Parks fees.

APPROVAL OF MINUTES OF JANUARY 15, 2009

A motion to accept the minutes was made by Trustee White and seconded by Trustee McKay. The minutes were unanimously approved by a vote of 9-0-0.

COMMISSIONER'S REPORT

L.I. Dog

The Parks Department and the County Executive's office met with representatives of Long Island Dog to discuss future dog park areas. One of the focal points was natural border dog parks. We are moving towards opening two this year. One would be on Roe Avenue in East Patchogue and another area in central Brookhaven. L.I. Dog has proposed group cleanups at some of the sites and we are working with them to develop a group permit process. We also discussed the pilot fenced in dog area at Coindre Hall.

Indian Island Golf Course

The concessionaire at Indian Island Golf Course is hoping to again start the target green work importing soil from one of the Town of Riverhead's pre-approved soil vendors. We hope this will happen within the next month or so. The weather and ground conditions have precluded them from bringing in the soil.

Historic Structures Survey

The survey was presented to the Trustees and the Legislature. We will be doing a presentation at the next Parks Committee meeting.

Long Island Maritime Museum – East Gate House

The Legislature approved an amendment to the resolution which allowed the Museum to utilize the East Gate House. The new resolution allows the use of the East Gate House for either administrative offices or for housing of a future director at the museum. There's also a sunset clause that if no positive action is taken within a year, the use of the East Gate House would resort to the Parks Department.

Farmingville Hills

We are moving ahead establishing a trail head. We're hoping that it will open some time this spring.

South Bay Street Acquisition in Lindenhurst

Dennis Brown, Assistant County Attorney, explained the powers of the Trustees with respect to acquisitions under the 1987 law. We looked at the powers of the County that the Legislature has under County Law and under the Charter. We also looked at the powers of the Trustees under the 1987 law. We also found a section of the Administrative Code that deals with utility easements. Under that section of the code, authority is granted to the Trustees to approve when utility easements want to be placed in properties acquired by the County for Parks. Under the Charter it is pretty clear that in some circumstances the Trustees are vested with the power to "recommend" and in some cases they are vested with the power to "approve". With respect to Parks fees it is the power of the Trustees, in conjunction with the Legislature, to "approve". In other instances it's the power of the Trustees only to "recommend". Under section C28-3A it says "recommend" to the Commissioner any parcels to be acquired under this article. That is in the 1987 law. In the plain reading of the sections described, the powers of the Trustees are to "recommend" with respect to an acquisition irrespective of how it has been applied in the past.

Trustee Corwin asked what approval authority the Trustees have.

Dennis Brown said with respect to the 1987 law, the power would be to "recommend". If it was intended under the 1987 law for the Trustees to have power of approval, it would have stated approval.

Trustee McKay said the word “approved” is used in Section 12-3B....the Suffolk County Parks Board of Trustees, minus its ex-officio members, shall recommend to the Commissioner of the Suffolk County Department of Real Estate any parcel to be acquired under this article which has been “approved” by an affirmative vote for the entire membership of such Board. The way he reads this is “if we haven’t approved a parcel, we can’t recommend it.”

Dennis Brown responded that a vote comes before the Board and the Trustees have the ability to recommend it. The approval is the affirmative vote to recommend.

Trustee McKay said if you read Section C, it goes on to say that the Commissioner of the Suffolk County Department of Real Estate shall not enter into any negotiations for the acquisition on any such parcel so contemplated unless and until said parcel has been recommended by said Board for acquisition. If the Board doesn’t recommend it for acquisition, it’s done.

Dennis Brown responded what has been conferred upon the Trustees is the ability to “recommend” and Real Estate cannot proceed until there’s been a recommendation, but based on the reading of the Charter and the County Law, it cannot be said that the Trustees power is equal to or above that of the Legislature.

Trustee McKay said for over 10 years this Board has been reviewing property after property. The Trustees developed a list of criteria which can be found in the Land Acquisition Manual. In the past, the Board has only denied two acquisitions, both of which were not consummated under Article 12 because the Trustees did not approve them.

Dennis Brown said reading the Charter from the prospective of the law; he does not see that the Trustees can “approve” an acquisition. Be that as it may, if the Trustees had voted not to recommend the acquisition of the South Bay Property prior to the November Legislative meeting that may, or may not, have given the Legislature pause before going ahead with the vote on the acquisition.

Trustee McKay read from the Land Acquisition Manual, page 20, Article 12-5E of the Charter, and it reads ‘prior to the acquisition of property by the Division of Real Estate, the parcels proposed are to be reviewed and approved by the Board of Trustees of the Department of Parks, minus its ex-officio members, according to criteria established by the Board.’”

Tom Isles brought up two separate points.

1. Regarding the opinion of the County Attorney, the Parks Department can still go ahead and make recommendations as they have done in the past. In the future the Parks Department can still bring acquisitions to the Board and the Legislature can consider or not consider them as they wish.

Dennis Brown said if there is an acquisition the Trustees do not recommend, because of the history and precedent of the Board, their decision would give the Legislature pause to act.

2. The County Farmland Committee reviews and recommends parcels to be considered for acquisition under the Farmland Protection Program. Does that apply here today here?

Dennis Brown responded “yes”.

Lauretta Fischer asked if the Board makes a negative decision and it was not considered or brought before the Legislature before they vote, would that make it null and void because the decision of this Board was not brought before the Legislature?

Dennis Brown said if the Trustees make a decision not to recommend an acquisition, it would not make a difference. The fact that the Legislature may, or may not have been cognitive of the position of the Trustees at the time of the vote, cannot be construed as rendering the legislative action void because that would giving the Board veto authority over the Legislature to act.

Legislator Vilorio-Fisher said when she was the Chair of the Environment Committee, they would never let any of their acquisitions that required a recommendation from this Board out of Committee without their recommendation. It would stay in Committee. That was the advice of counsel. Why didn't that occur?

Dennis Brown replied he did not know. Maybe there are discussions that need to be had.

Trustee Walters said this case is different because the Trustees were asked by a member of Legislature to table the acquisition of the South Bay Street property. The Trustees did this as a courtesy to the Legislator. Did we hurt our standings by tabling this resolution?

Dennis Brown replied he would say "yes".

Lauretta Fisher asked what the best procedure would be for us going forward. What is the best way to make those recommendations known to the Legislature before they vote on an acquisition?

Dennis Brown said while it is presumptuous for him to answer, he will. If you have what you feel is a controversial matter and the Trustees need some representation on an issue that's coming up in Committee or at a general meeting, you have to make your position known and you make your position known by sending someone to the meeting.

Deputy Commissioner Bellone said the Legislator, without the knowledge of the Trustees, brought it before the Legislature to vote on it. There was never a concern about this acquisition because the Trustees had been asked by the Legislator to table this acquisition.

I.R. Resolution 2023-2009 – Parks Fees

Commissioner Pavacic asked the Trustees for their comments on this resolution.

Trustee Amy Engel said the County Executive vetoed this bill. The County Executive feels very strongly that in this economic climate it is not the right thing to do. Copies of the veto letter from the County Executive to Presiding Officer Lindsay were distributed to the Trustees. The Legislature has the power to override the County Executive's veto.

Legislator Vilorio-Fisher said she has spoken to the Trustees and the golf pros regarding this fee increase. She revamped the entire resolution to reflect the items that were discussed at these meetings. She said we, as a County, cannot afford to absorb the kind of expenditures associated with the maintenance and operations of our parks without raising the fees.

Trustee McKay said expenses are not going to go down this year and asked why the sunset for the fee increase at the end of the year?

Legislator Vilorio-Fisher said the legislature is going to look at this fee increase during the course of the year and look to continue a fee increase next year.

A motion to approve the fee increase was made by Trustee White and seconded by Trustee Schilling. Trustees Cardillo, Engel and McKay opposed the fee increase. The motion was passed by a vote of 6-3-0.

Trustee Corwin said despite today's decision, there needs to be a long term working group between the County Budget Department, the Legislative Budget Department and the Park Trustees.

A motion for a proposal was made by Trustee Corwin and seconded by Trustee McKay that representatives from the County Executive's office, the Legislature's office (through the office of the Presiding Officer), and the Parks Trustees convene, for a limited term, a working group to find a longer term solution so that Parks can be self sustaining. The motion was approved by a unanimous vote of 9-0-0.

CHAIRMAN'S REPORT

Chairman Cardillo asked about the John Fritz memorial fishing pier and naming of the Cupsogue Boardwalk. Legislator Vilorio-Fisher reported the six-month waiting period is up next month.

ROUND TABLE

Trustee White asked for an update on the GATR site and the surveying on the elevations. Nick Gibbons responded the surveying is done in-house. He also said the observation walk in the Village of Westhampton Dunes is coming along nicely. Most of the work was done in-house. It is a very nice amenity for the general public to observe wildlife on the bay side.

Trustee Engel recognized the McMullen's who were present today and mentioned they have been very helpful at their meetings with L.I. Dog.

Trustee White asked how close we are to opening the one cabin at Third House for small meeting groups. Tracey Bellone responded there are structural problems with the building and problems obtaining a permit for public assembly. Parks personnel visited the site and met with DPW, the Fire Marshall and internal maintenance. It is going to be their recommendation that the Observatory build a separate building because the foundation is so thin. The site would never be able to sustain a building for public assembly.

Trustee White reported that attorneys are now involved with the communication tower poles. Trustee White asked that once "their" attorney and "our" attorney agree, could Parks walk it through the County Attorney's office. Tracey Bellone reported the County Attorney's office is aware of this.

Trustee McKay asked to read one more item related to the South Bay Street acquisition. According to the Land Acquisition Manual, page 20, section 12-5.E, the property must meet at least one of the following criteria. One of the criteria is that "property abuts federal, state, town, village, private conservation, or other reasonably appropriate properties with management commitments." Keep this in mind. Furthermore, lands acquired under this program are to remain in their natural state and be managed as a nature preserve.

Trustee Corwin asked if the observation platform in Westhampton Dunes is within a short walking distance of the main Cupsogue parking lot. The response was its right down the block. Trustee Corwin asked if that alleviates the issue of parking at the observation platform. Nick Gibbons responded "no" for a couple of reasons. The Cupsogue parking lot fills on most Sundays and probably half of the Saturdays. While it's within a reasonable walking distance, there are segments of the public that would disagree with that.

The next meeting is scheduled for Thursday, March 19th at Timber Point in Great River.

A motion to adjourn the meeting was made by Trustee White and seconded by Trustee Borden. The motion was unanimously approved by a vote of 9-0-0.